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VICTIM/WITNESS ASSISTANCE

A Handbook for Victims and Witnesses

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Greenfield, Mass.

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Office of the District Attorney

W. Michael Ryan
District Attorney
Northwestern District

OFFICE OF THE
DISTRICT ATTORNEY
NORTHWESTERN DISTRICT

Dear Citizen,

As a victim of a crime or a witness to one, your participation in the criminal justice system is an essential part of the fight against crime.

Many people are reluctant to come to court because of fear, personal inconvenience, or because they know little about what will be expected of them. The Victim/Witness Assistance Unit of this office was established in an attempt to address these problems. Our staff will answer your questions about the court proceedings, inform you of services that are available to you, and make every effort to reduce the burdens associated with court involvement.

If you are the **victim** or **witness** of a crime, you are important because you have seen, heard or know something about the crime which has been committed. Your participation and cooperation are essential for successful prosecution.

Please call the Victim/Witness Assistance Unit if you have any questions or concerns about your case. Our staff is available Monday through Friday between 8:30 A.M. and 4:30 P.M., at 586-5780 in Northampton, 772-6944 in Greenfield, and at (617) 544-7376 in Orange.

Sincerely,

W. Michael Ryan
District Attorney

THE VICTIM/WITNESS ASSISTANCE UNIT is a specialized unit within the Office of the Northwestern District Attorney designed to help victims and witnesses of crimes throughout the court process.

Services provided by Victim/Witness Assistance include the following:

- **INFORMATION REGARDING COURT PROCEEDINGS:** Victim/Witness Assistance staff will keep you informed of the status of your case, notify you of any required court appearances, accompany you to court, and answer any questions you may have about the proceedings. We can also provide information about the court system before any criminal action has begun, and assist you if you decide to file a complaint.

- **VICTIM RIGHTS INFORMATION AND ASSISTANCE:** Victim/Witness Advocates are available to aid victims and witnesses of crimes with the rights afforded by the Victim Bill of Rights (Mass. General Law. Ch. 258B). We aid victims and/or family members of felony cases and motor vehicle homicide cases with the preparation of **VICTIM IMPACT STATEMENTS,** which include information about financial, medical, and psychological impact of the crime on the victim, and are presented to the Court at the time of sentencing.

- **VICTIM COMPENSATION INFORMATION:** Massachusetts law provides for compensation for victims of violent crimes, or their dependents, who have suffered out-of-pocket loss due to physical injury, loss of income, or death. Our staff will assist you in determining your eligibility for this fund, and in filing a claim.

- **ABUSE PREVENTION ("Restraining Order") PETITIONS:** If you have been abused, beaten, or threatened by a member of your family or household, the Victim/Witness Assistance staff can assist you in filing for a 209A Abuse Prevention petition.

- **SOCIAL SERVICE REFERRALS:** A number of social service agencies provide services that you as a victim or witness of crime may find valuable, such as counseling (including rape and abuse), financial assistance, emergency housing, mediation etc. Victim/Witness Staff can assist you in obtaining these services.

THE CRIMINAL JUSTICE PROCESS

DISTRICT COURT:

- **A CRIMINAL COMPLAINT** charges someone with committing a crime. The person charged with the crime is called the **DEFENDANT.** A criminal complaint is obtained at the District Court Clerk's Office by the police or by a private citizen.

- **A SHOW CAUSE HEARING** may take place at the Clerk's Office before a criminal complaint is issued. If you are the person filing the complaint, the Clerk will ask you to tell the facts of the incident at this hearing.

- Once a criminal complaint is issued, the case will be prosecuted by the District Attorney's Office on behalf of the Commonwealth.

- At the **ARRAIGNMENT** the criminal charges are read to the defendant, and a plea of guilty or not guilty is entered. A "not guilty" plea will usually be entered, and a pre-trial conference date will be set. **THE VICTIM OR WITNESS NEED NOT BE PRESENT AT THE ARRAIGNMENT.**

- At the **PRE-TRIAL CONFERENCE,** the case is discussed by the Assistant District Attorney and the defense attorney, who then report the results of their conference to the judge. If all parties agree to the facts, the defendant may plead guilty or "submit to sufficient facts to warrant a finding of guilty", and the case may be resolved on that day. If no agreement on the case is reached, a **TRIAL** date may be set.

- **DISTRICT COURT TRIAL**
  Shortly before the trial date you may receive a subpoena to testify in court. A trial is a hearing where the facts of the case are presented in court by witnesses for both the Commonwealth and the defendant. Each witness will be asked questions by both the Assistant District Attorney and the defense attorney.

  A trial at the District Court level may be in front of a judge or a jury of six persons. If a defendant is found guilty by a judge, s/he may appeal the case to a Jury of Six.

SUPERIOR COURT:

- **A PROBABLE CAUSE HEARING** may be scheduled in felony cases, to determine if the case should be BOUND OVER from District Court to Superior Court. Witnesses may be called to testify before a judge, who will decide whether there is probable cause to believe the crime was committed.

- Felony cases may also be presented to a **GRAND JURY,** which will determine whether there is enough evidence to indict the defendant. An **INDICTMENT** charges the defendant with a felony in the **SUPERIOR COURT.** The Grand Jury, which consists of 23 citizens, hears evidence presented by the Commonwealth through questioning of witnesses. The proceedings are closed to the public, and the defendant is not present.

- If indictments are returned by the Grand Jury, the defendant will be **ARRAIGNED** in Superior Court.

- **CHANGE OF PLEA:** Prior to trial defendant may choose to change his/her plea to "Guilty" rather than to proceed to trial. Witnesses will not be called to testify, since the defendant is admitting to having committed a crime. The victim may choose to be present at the time of the plea, and may present a Victim Impact Statement to the Court.

- **SUPERIOR COURT TRIAL**
  The facts of the case are presented in court by witnesses for the Commonwealth and for the defendant, to a Superior Court Judge or to a jury of twelve people.

  After all evidence is presented, the judge or jury will decide whether the defendant is guilty of committing the crime as charged. A unanimous decision of jurors is necessary in order to convict the defendant. If the defendant is found guilty, s/he will be sentenced by the judge.

THE CRIMINAL JUSTICE PROCESS (continued)

- It is up to the Commonwealth to prove every element of a case **BEYOND A REASONABLE DOUBT.** If the judge or jury finds that this burden is not met, the defendant must be found not guilty. If this happens, it does not necessarily mean that you are not believed, or that the defendant is believed to be innocent. A not guilty verdict only means that the evidence presented was not sufficient to prove that the defendant was guilty of the crime beyond a reasonable doubt.

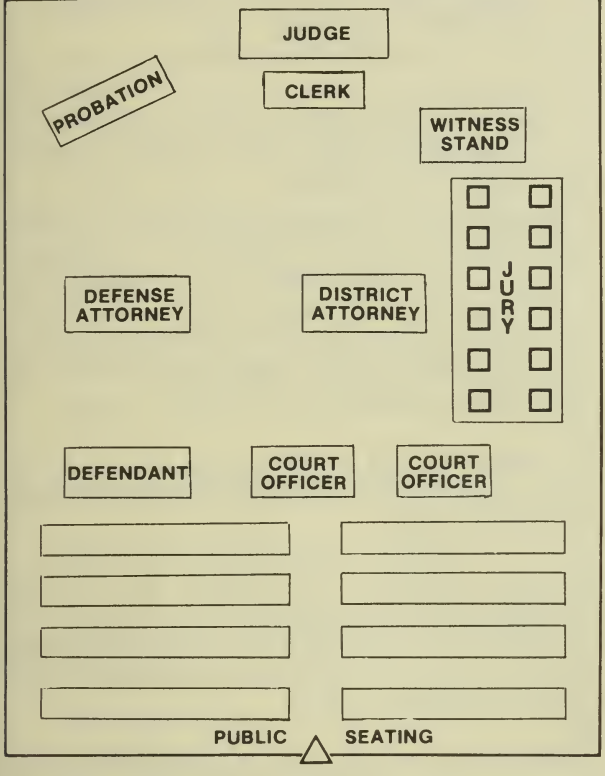
- **SENTENCING:** If the defendant has been found guilty after a trial, or has decided to plead guilty, the judge will consider sentence recommendations by the Commonwealth, the defense attorney, and Victim Impact Statements prepared by the victim and/or family, before final disposition of the case.

  Sentences may include: imprisonment; suspended sentence; probation; fine or court costs. Special conditions of probation, such as counseling for the defendant or an order to stay away from the victim, may be imposed in certain cases.

- **RESTITUTION**
  If you have suffered out-of-pocket expenses as a result of your victimization, the judge may, in appropriate cases, order the defendant to reimburse you for your financial loss as a part of the sentence imposed.

  If the defendant disputes this order, a **restitution hearing** may be scheduled. You will be asked to provide the District Attorney's Office or the Probation Department with documentation of your losses.

COURTROOM DIAGRAM



JUSTICE TAKES TIME

We ask your patience in dealing with the courts. It is a serious matter to charge a person with a crime. The process of justice requires time — yours and that of many other people.

If your case is scheduled on a certain date and is then continued to another day, the Victim/Witness Assistance staff will keep you informed of the continuance date and of whether you must appear in court.

As a victim or witness, it is very important to keep the Victim/Witness Assistance Unit informed of your current address and telephone number so that we can contact you about your case. If you change your address or phone number, be sure to let us know.

SUGGESTIONS FOR WITNESSES:

- **PREPARING FOR TRIAL**
  Shortly before the scheduled trial date, you will have a chance to discuss your testimony with an Assistant District Attorney. This may be several months after the crime, and it is often difficult to remember all the details.

  Please be as complete as possible in relating the facts so that the prosecutor can best prepare the case. **BE HONEST.** Do not hide information that you think is harmful to the case; if such information is disclosed for the first time at trial it could discredit your testimony and lessen the chances of obtaining a conviction.

- **DRESSING FOR COURT.** Since court is a formal proceeding, it is important for all witnesses to dress neatly.

- **THINK BEFORE YOU SPEAK.** Be sure you understand each question, then give an accurate answer to the best of your ability. If you do not know the answer to a question or if you don't remember, say so.

- When one of the lawyers says **OBJECTION,** stop your answer immediately and wait until the Court gives its ruling.

- **ANSWER ALL QUESTIONS DIRECTLY.** Listen carefully to the question, and answer only the question asked. If you can answer the questions with a simple yes or no, do so. Do not volunteer information that is not asked.

- **IF YOU DO NOT UNDERSTAND A QUESTION, ASK THAT IT BE EXPLAINED.**

- **BE HONEST.** Though you may be testifying in favor of a friend and, would like to help him or her, do not exaggerate your testimony or try to slant it in one direction. Your job as a witness is to tell the truth.

- **STAY CALM** and **BE COURTEOUS.** It is important that you do not lose your temper, even if the attorney questioning you makes you angry. Do not argue back; simply answer the questions politely and to the best of your ability.

YOUR RIGHTS AS A VICTIM OR WITNESS OF CRIME

The Massachusetts Victim Bill of Rights, effective March 20, 1984, mandates the following rights and protection for victims, family members, and witnesses of crimes:

- Notification of court dates, appearances, and final disposition of the case.
- Prompt disposition of the case.
- Secure waiting areas in court.
- Information and assistance regarding:
  - Right to request restitution
  - Witness fees
  - Social Service referrals
  - Employer and creditor intercession
  - Transportation to court, family support and child care services available
  - Inmate release status
  - Level of protection available
  - Prompt return of property
  - Compensation to Victims of Violent Crimes
- Victims and/or family members of felony cases and motor vehicle homicide cases have the right to receive notification of the time and place of sentencing, and to present a **VICTIM IMPACT STATEMENT** to the Court, either orally or in writing.

VICTIM/WITNESS ASSISTANCE AND COURT LOCATIONS

NORTHAMPTON

- **VICTIM/WITNESS ASSISTANCE**
  District Attorney's Office
  1 Court Square, Northampton, MA 01060
  (413) 586-5780

  (Located next door to the Courthouse; metered parking available on Gothic St.)

- District and Superior Courts — 15 Gothic St.
  (District Court: Second floor
  Superior Court: Third floor)

GREENFIELD

- **VICTIM/WITNESS ASSISTANCE**
  District Attorney's Office
  55 Federal Street, Greenfield, MA 01301
  (413) 772-6944

  (Located in the Hayburne Bldg, upstairs from the Registry of Motor Vehicles)

- District and Superior Courts — 325 Main St.
  (District Court: First floor/basement
  Superior Court: Third floor)

ORANGE

- **VICTIM/WITNESS ASSISTANCE**
  District Attorney's Office
  32 North Main St., Orange, MA 01364
  (617) 544-7376

- Orange District Court — 32 North Main St.

WARE

- **VICTIM/WITNESS ASSISTANCE**
  District Attorney's Office
  71 South St., Ware, MA 01082
  (413) 967-3711 (Mondays & Tuesdays; all other times, contact Northampton office)

- Ware District Court — 71 South Street

SOUTH HADLEY

- Contact Northampton offices

- District Court sessions are held in Town Hall, South Hadley.

NOTES

CASE: Commonwealth vs. _____

_____

CHARGE(S): _____

_____

THE VICTIM/WITNESS ASSISTANCE UNIT OF THE NORTHWESTERN DISTRICT ATTORNEY'S OFFICE IS AVAILABLE TO ALL CRIME VICTIMS IN HAMPSHIRE COUNTY, FRANKLIN COUNTY AND ATHOL. SERVICES ARE FREE. PLEASE CALL OR VISIT US IF WE CAN BE OF ASSISTANCE.

- **PROGRAM DIRECTOR: Sally Borden**
  1 Court Square, Northampton, MA 01060
  (413) 586-5780

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